

87-272

Fair Political Practices Commission

MEMORANDUM

To: West Group
From: Joan Giannetta
Legal Secretary
Subject: Superseded Advice Letters
Date: January 5, 2001

Please add the following to the summary for the *House* Advice Letter, No. A-92-111:

“This letter has been superseded by the *Miller* Advice Letter, No. A-00-242.”

Please add the following to the summary for the *Herzig* Advice Letter, No. A-87-272:

“This letter has been superseded in part by the *Sutton* Advice Letter, No. A-00-226, to the extent that it indicates that payments for litigation to keep a measure off of a ballot are made, per se, ‘for political purposes’.”

Please add the following to the summary for the *Doyle* Advice Letter, No. I-88-202:

“This letter has been superseded in part by the *Sutton* Advice Letter, No. A-00-226, to the extent that it indicates that payments for litigation to keep a measure off of a ballot are made, per se, ‘for political purposes’.”

Please add the following to the summary for the *Lowe* Advice Letter, No. A-92-407:

“This letter has been superseded in part by the *Sutton* Advice Letter, No. A-00-226, to the extent that it indicates that payments for litigation to keep a measure off of a ballot are made, per se, ‘for political purposes’.”

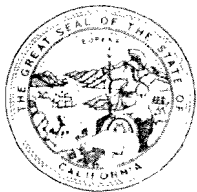
Please add the following to the summary for the *Schmidt* Advice Letter, No. A-92-408:

“This letter has been superseded in part by the *Sutton* Advice Letter, No. A-00-226, to the extent that it indicates that payments for litigation to keep a measure off of a ballot are made, per se, ‘for political purposes’.”

Please add the following to the summary for the *Leidigh* Advice Letter, No. A-99-272:

“This letter has been superseded in part by the *Sutton* Advice Letter, No. A-00-226, with respect to the first and second conditions identified herein as conditions necessary in finding that a payment in support of litigation over an initiative is not a reportable contribution or expenditure.”

Thank you for your assistance. Please call me at (916) 322-7770 if you have any questions.



California
Fair Political
Practices Commission

SUPERSEDED

(SUL MEMO attached)

December 2, 1987

Joseph Herzig, President
North Tustin Homeowners Corporation
1751 Rainbow Drive
Santa Ana, CA 92705

Re: Your Request for Advice
Our File No. A-87-272

Dear Mr. Herzig:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act.^{1/}

FACTS

The North Tustin Homeowners Corporation expended funds to litigate two lawsuits to enjoin the City of Tustin from proceeding with an election in which two annexation measures were to be voted upon. The basis for the lawsuits was that the City of Tustin acted illegally by not terminating the annexation proceedings when it received majority protests against the annexations pursuant to the Cortese/Knox Local Government Reorganization Act of 1987.

QUESTION

Are the payments by the North Tustin Homeowners Corporation reportable under the campaign disclosure provisions of the Political Reform Act?

CONCLUSION

Payments for litigation in connection with challenging the placement of the annexation proposals on the city ballot are "expenditures" under the Political Reform Act. The North Tustin Homeowners Corporation must report the expenditures on its campaign disclosure statements.

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

ANALYSIS

"Expenditure" as used in the Act is defined in Section 82015 and in Regulation 18225. Regulation 18225 provides:

An expenditure is any monetary or nonmonetary payment made for political purposes....

Regulation 18225(a).

The Fair Political Practices Commission, in its opinion issued to Douglas Buchanan, 5 FPPC 14 (No. 79-013, May 1, 1979) stated:

When expenditures are made to support litigation aimed at gaining a place on the ballot for a candidate or measure, aimed at keeping a candidate or measure off the ballot, or challenging the results of an election, the expenditures are made for the purpose of influencing the outcome of the election in favor of or against a particular candidate or measure and should be reported.

(5 FPPC 16. Emphasis added.)

Because the purpose of the litigation was to keep the annexation proposals off the ballot, the expenditures for the litigation must be reported by the North Tustin Homeowners Corporation on its regular campaign disclosure statements.

In addition, because the expenditures were "independent expenditures," the corporation must file a "Supplemental Independent Expenditure Report" (Form 465) if \$500 or more was spent in a reporting period in connection with the litigation.

The dates the Association is required to file campaign statements are determined by whether an election is held in the city during the six-month period in which the expenditures were made. Because the City of Tustin did not hold an election in 1987, the year during which the corporation made the payments, the corporation would be required to file only semi-annual statements for 1987. Recipient committees are required to file semi-annual statements for each six-month period, whether or not any contributions were received or expenditures were made. (Section 84200.) Semi-annual campaign statements are due no later than July 31 (for the period January 1 through June 30), and no later than January 31 (for the period July 1 through December 31).

If expenditures were made during the period January 1 through June 30, 1987, and were not disclosed on a campaign statement filed by the corporation, the corporation should file a campaign statement

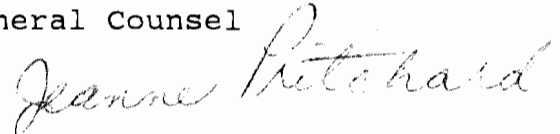
Joseph Herzig
Page Three

disclosing the payments as soon as possible. If all of the expenditures were made during the period July 1 through December 31, 1987, the expenditures should be itemized on a campaign statement filed by the Association no later than January 31, 1988.

Please call me at (916) 322-5662 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths
General Counsel

A handwritten signature in cursive script, reading "Jeanne Pritchard".

By: Jeanne Pritchard
Division Chief,
Technical Assistance and
Analysis Division

Enclosures

NORTH TUSTIN HOMEOWNERS CORPORATION (NTHC)

Principal Office: 1751 Rainbow Drive, Santa Ana, Ca 92705
6013 2 24 67

October 25, 1987

Jeanne Pritchard
Chief, Technical Assistance and Analysis Division
California Fair Political Practices Commission
428 J Street
P.O. Box 807
Sacramento, California 95804-0807

Committee Identification Number: 871169

Regarding: The reportability of funds expended to litigate certain lawsuits.


Dear Ms. Pritchard,

Thank you for your letter, and a copy of the "Buchanan" opinion (dated May 1, 1979). This letter is written to clear up certain ambiguities in the "Buchanan" decision regarding the reportability under the California Fair Political Practices Act of funds expended by the North Tustin Homeowners Corporation (NTHC) to litigate certain lawsuits against a local city (the City of Tustin, County of Orange, State of California).

If you recall from our conversation, the lawsuits were regarding two small municipal annexations, Proposed Tustin Annexations No. 139 and No. 140. The NTHC lawsuits alledged that the City of Tustin acted illegally, by not terminating annexation proceedings in these two annexations when it received majority protests in both annexations (at or over 50%, reference: Cortese/Knox Local Government Reorganiztion Act of 1985). The suits brought by NTHC were in the form of Petitions for Writs of Mandate to the California Superior Court (case numbers 53-29-58 and 53-32-27). A copy of the Petition for Writ of Mandate, for each suit, is enclosed. A copy of the Judgement, for both suits, is enclosed.

The judgement met our objectives. Can you please indicate if the funds we expend on these lawsuits, for attorneys and other expenses, are reportable under the provisions of the Fair Political Practices Act? Thank you for your help in this matter.

Sincerely,


Joseph Herzig, President
North Tustin Homeowners Corporation

cc: Rutan & Tucker, Roger Grable, Philip D. Kohn
NTHC Directors

87-272

NORTH TUSTIN HOMEOWNERS CORPORATION (NTHC)

Principal Office: 1751 Rainbow Drive, Santa Ana, Ca 92705

October 25, 1987

Jeanne Pritchard
Chief, Technical Assistance and Analysis Division
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428 J Street
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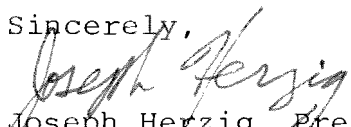
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If you recall from our conversation, the lawsuits were regarding two small municipal annexations, Proposed Tustin Annexations No. 139 and No. 140. The NTHC lawsuits alleged that the City of Tustin acted illegally, by not terminating annexation proceedings in these two annexations when it received majority protests in both annexations (at or over 50%, reference: Cortese/Knox Local Government Reorganization Act of 1985). The suits brought by NTHC were in the form of Petitions for Writs of Mandate to the California Superior Court (case numbers 53-29-58 and 53-32-27). A copy of the Petition for Writ of Mandate, for each suit, is enclosed. A copy of the Judgement, for both suits, is enclosed.

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Sincerely,


Joseph Herzig, President
North Tustin Homeowners Corporation

cc: Rutan & Tucker, Roger Grable, Philip D. Kohn
NTHC Directors



California Fair Political Practices Commission

November 2, 1987

Joseph Herzig, President
North Tustin Homeowners Corporation
1751 Rainbow Drive
Santa Ana, Ca 92705

Re: 87-272

Dear Mr. Herzig:

Your letter requesting advice under the Political Reform Act was received on October 30, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard by jph
Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh

1 RUTAN & TUCKER
ROGER A. GRABLE
2 PHILIP D. KOHN
Central Bank Building
3 611 Anton Boulevard, Suite 1400
Post Office Box 1950
4 Costa Mesa, California 92628-1950
Telephone: (714) 641-5100

5 Attorneys for Petitioners
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF ORANGE
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| | | |
|----------------------------|---|-----------------------------|
| 11 NORTH TUSTIN HOMEOWNERS |) | CASE NO. 53-29-58 |
| 12 CORPORATION, et al. |) | CASE NO. 53-32-27 |
| |) | |
| 13 Petitioners, |) | PEREMPTORY WRITS OF MANDATE |
| |) | |
| 14 vs. |) | |
| |) | |
| 15 CITY OF TUSTIN, et al., |) | |
| |) | |
| 16 Respondents. |) | |
| |) | |
| 17 NORTH TUSTIN HOMEOWNERS |) | |
| 18 CORPORATION, et al. |) | |
| |) | |
| 19 Petitioners, |) | |
| |) | |
| 20 vs. |) | |
| |) | |
| 21 CITY OF TUSTIN, et al., |) | |
| |) | |
| 22 Respondents. |) | |

23 THE PEOPLE OF THE STATE OF CALIFORNIA TO THE CITY OF TUSTIN, CITY
24 COUNCIL OF THE CITY OF TUSTIN AND CITY CLERK OF THE CITY OF TUSTIN
25 ("CITY RESPONDENTS") AND TO THE COUNTY OF ORANGE AND REGISTRAR OF
26 VOTERS OF THE COUNTY OF ORANGE ("COUNTY RESPONDENTS"):

27 Judgment has been entered in the above-captioned actions
28 ordering that a Peremptory Writ of Mandate be issued from this
Court in each action,

1 CITY RESPONDENTS, and each of them, ARE HEREBY COMMANDED
2 immediately upon receipt of these Writs to:

3 (a) vacate, set aside and rescind City Council Resolution
4 Nos. 87-71 and 87-72;

5 (b) terminate and abandon the proceedings for the proposed
6 Eveningside-Rainbow Annexation No. 139 and the proposed
7 La Colina-Browning Annexation No. 140; and

8 (c) take all other steps necessary and available to cause
9 the cancellation of the special elections scheduled for
10 November 3, 1987 on the aforementioned proposed
11 annexations.

12 COUNTY RESPONDENTS, and each of them, ARE HEREBY COMMANDED
13 immediately upon receipt of these Writs to refrain from conducting
14 or administering the scheduled November 3, 1987 special election
15 on the proposed Eveningside-Rainbow Annexation No. 139 and the
16 proposed La Colina-Browning Annexation No. 140, including but not
17 limited to: (a) the mailing or distribution of voter pamphlets,
18 absentee ballots, ballots and other election materials that have
19 been or may be published in connection with the proposed
20 annexations, and (b) the canvassing and certification of election
21 returns or results in connection with the proposed annexations.

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1 CITY RESPONDENTS and COUNTY RESPONDENTS ARE HEREBY FURTHER
2 COMMANDED to make, file and serve a return to these Writs within
3 thirty (30) days, setting forth what each of them have done to
4 comply herewith.

5 Prepared and circulated
6 to other counsel by:

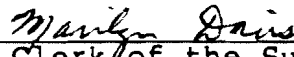
7 RUTAN & TUCKER

8 
9
10 BY: PHILIP D. KOHN

11 DATED: OCT 5 1987

GARY L. GRANVILLE
Clerk of the Superior Court
County of Orange



12
13
14
15 By: 
Deputy Clerk of the Superior Court

MARILYN DAVIS

1 RUTAN & TUCKER
2 ROGER A. GRABLE
3 PHILIP D. KOHN
4 Central Bank Building
5 611 Anton Boulevard, Suite 1400
6 Post Office Box 1950
7 Costa Mesa, California 92628-1950
8 Telephone: (714) 641-5100
9
10 Attorneys for Petitioners

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

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|-------------------------|---|-----------------------------|
| NORTH TUSTIN HOMEOWNERS |) | CASE NO. 53-29-58 |
| CORPORATION, et al. |) | CASE NO. 53-32-27 |
| |) | |
| Petitioners, |) | NOTICE OF ENTRY OF JUDGMENT |
| |) | |
| vs. |) | |
| |) | |
| CITY OF TUSTIN, et al., |) | |
| |) | |
| <u>Respondents.</u> |) | |
| |) | |
| NORTH TUSTIN HOMEOWNERS |) | |
| CORPORATION, et al. |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| vs. |) | |
| |) | |
| CITY OF TUSTIN, et al., |) | |
| |) | |
| <u>Respondents.</u> |) | |

TO EACH PARTY AND THEIR ATTORNEYS OF RECORD:

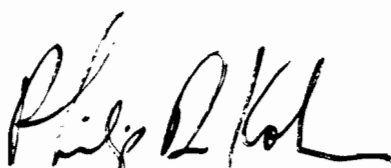
PLEASE TAKE NOTICE that a Judgment Overruling Demurrers and Granting Peremptory Writs of Mandate in the above-captioned actions was entered on October 2, 1987. A true and correct copy of said Judgment, the original of which was signed by the Honorable William F. McDonald, Judge of the Superior Court, is attached

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hereto and incorporated herein by this reference.

DATED: October 7, 1987.

RUTAN & TUCKER
ROGER A. GRABLE
PHILIP D. KOHN



BY: PHILIP D. KOHN
Attorneys for Petitioners

5/130/011799-0001/008

1 RUTAN & TUCKER
2 ROGER A. GRABLE
3 PHILIP D. KOHN
4 Central Bank Building
5 611 Anton Boulevard, Suite 1400
6 Post Office Box 1950
7 Costa Mesa, California 92628-1950
8 Telephone: (714) 641-5100

9 Attorneys for Petitioners

FILED

OCT 02 1987

GARY L. GRANVILLE, County Clerk
DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

11 NORTH TUSTIN HOMEOWNERS
12 CORPORATION, et al.

13 Petitioners,

14 vs.

15 CITY OF TUSTIN, et al.,

16 Respondents.

17 NORTH TUSTIN HOMEOWNERS
18 CORPORATION, et al.

19 Petitioners,

20 vs.

21 CITY OF TUSTIN, et al.,

22 Respondents.

) CASE NO. 53-29-58

) CASE NO. 53-32-27

) JUDGMENT OVERRULING

) DEMURRERS AND GRANTING

) PEREMPTORY WRITS OF

) MANDATE

23 These matters came on regularly for joint hearing on
24 September 30, 1987 before the Honorable William F. McDonald, Judge
25 presiding without a jury, in Department 21 of the above-entitled
26 Court. Petitioners North Tustin Homeowners Corporation, Ralph E.
27 Alexander, Sharon Curry, Joyce C. Wing, Ruth C. Crews and Sheila
28 M. Pryor ("Petitioners") appeared and were represented by the law
firm of Rutan & Tucker, by Philip D. Kohn. Respondents City of

1 Tustin, City Council of the City of Tustin and City Clerk of the
2 City of Tustin ("City Respondents) appeared and were represented
3 by the law firm of Rourke & Woodruff, by James G. Rourke, City
4 Attorney, and Clark F. Ide. Respondents County of Orange and
5 Registrar of Voters of the County of Orange ("County Respondents")
6 made no appearance but, through their representation by the County
7 Counsel of the County of Orange, filed a "Notice of No Opposition
8 to Petition for Writ of Mandate" in each of the above-captioned
9 actions.

10 The Court has read and reviewed all of the papers filed in
11 these matters and has considered all of the evidence and argument
12 presented by the parties. Finding that the City Respondents
13 failed to proceed in the manner required by law and, as such,
14 acted arbitrarily, capriciously and in excess of their
15 jurisdiction, and good cause appearing therefor,

16 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

17 1. The demurrers filed by the City Respondents in each of
18 the above-captioned actions shall be and are hereby overruled in
19 their entirety, and the answers submitted by the City Respondents
20 shall be and are hereby deemed to be filed.

21 2. A Peremptory Writ of Mandate shall issue from this Court
22 in each of the above-captioned actions to the City Respondents,
23 and each of them, commanding them to immediately: (a) vacate, set
24 aside and rescind City Council Resolution Nos. 87-71 and 87-72;
25 (b) terminate and abandon the proceedings for the proposed
26 Eveningside-Rainbow Annexation No. 139 and the proposed La
27 Colina-Browning Annexation No. 140; and (c) take all other steps
28 necessary and available to cause the cancellation of the special

1 election scheduled for November 3, 1987 on the aforementioned
2 proposed annexations.

3 3. The aforementioned Peremptory Writ of Mandate to be
4 issued in each of the above-captioned actions shall also command
5 the County Respondents, and each of them, to hereafter refrain
6 from conducting or administering the scheduled November 3, 1987
7 special election on the proposed Eveningside-Rainbow Annexation
8 No. 139 and the proposed La Colina-Browning Annexation No. 140,
9 including but not limited to (a) the mailing or distribution of
10 voter pamphlets, absentee ballots, ballots and other election
11 materials that have been or may be published in connection with
12 the proposed annexation, and (b) the canvassing and certification
13 of election returns or results in connection with the proposed
14 annexations.

15 4. Petitioners shall recover their costs incurred in the
16 above-captioned actions, upon a properly filed memorandum of
17 costs, against the City Respondents only. Petitioners' prayers
18 did not request a recovery of costs against the County
19 Respondents.

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1 5. Petitioners' right to an award of attorneys' fees against
2 the City Respondents, if any, shall be determined upon a noticed
3 motion by Petitioners brought pursuant to Code of Civil Procedure
4 Section 1021.5 and/or Government Code Section 800.

5 Prepared and circulated
6 to other counsel by:

7 RUTAN & TUCKER

8 
9
10 BY: PHILIP D. KOHN

11 DATED: OCT 02 1987

12 WILLIAM F. McDONALD
13
14 WILLIAM F. McDONALD
15 JUDGE OF THE SUPERIOR COURT
16
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28 5/130/011799-0001/007

1 RUTAN & TUCKER
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9 Attorneys for Petitioner
10 NORTH TUSTIN HOMEOWNERS CORPORATION

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF ORANGE

| | | | |
|----|------------------------------|---|----------------------|
| 13 | NORTH TUSTIN HOMEOWNERS |) | CASE NO. |
| 14 | CORPORATION, a California |) | |
| 15 | corporation, |) | PETITION FOR WRIT OF |
| 16 | |) | MANDATE |
| 17 | Petitioner, |) | |
| 18 | |) | |
| 19 | vs. |) | |
| 20 | |) | |
| 21 | CITY OF TUSTIN, a municipal |) | |
| 22 | corporation, CITY COUNCIL |) | |
| 23 | OF THE CITY OF TUSTIN, CITY |) | |
| 24 | CLERK OF THE CITY OF TUSTIN, |) | |
| 25 | COUNTY OF ORANGE, REGISTRAR |) | |
| 26 | OF VOTERS OF THE COUNTY OF |) | |
| 27 | ORANGE, and DOES 1 through |) | |
| 28 | 25, inclusive, |) | |
| | |) | |
| | Respondents. |) | |
| | |) | |

1 Petitioner NORTH TUSTIN HOMEOWNERS CORPORATION ("NTHC" here-
2 inafter), for itself and in its representative capacity on behalf
3 of its members/shareholders, hereby petitions this Court for a
4 Writ of Mandate under Code of Civil Procedure Section 1085 and
5 alleges as follows:

6 1. Petitioner NTHC is a California corporation organized
7 and existing in good standing under the laws of the State of Cali-
8 fornia to do business within the County of Orange, State of Cali-

1 fornia. The members/shareholders of Petitioner NTHC consist of
2 registered voters and owners of real property located within
3 Orange County and, more particularly, an unincorporated area known
4 as "the proposed Eveningside-Rainbow Annexation No. 139," bounded
5 by the Tustin Ranch on the east, La Colina on the north, Browning
6 Avenue on the west, and Irvine Boulevard on the south.

7 2. Respondent CITY OF TUSTIN (the "City" hereinafter) is a
8 general law municipal corporation located in the County of Orange
9 and is organized and existing under and by virtue of the laws of
10 the State of California.

11 3. Respondent CITY COUNCIL OF THE CITY OF TUSTIN (the "City
12 Council" hereinafter) is, when acting in its official capacity,
13 the governing body of the City of Tustin. The City Council is,
14 among other things, responsible for complying with the provisions
15 of the Cortese-Knox Local Government Reorganization Act of 1985
16 (Gov. Code § 56000 et seq.) with respect to proposals for the
17 annexation of real property to the City of Tustin. More spec-
18 ifically, the City Council, when acting as the conducting author-
19 ity for a proposed annexation of inhabited territory to the City,
20 is required by Government Code Section 57075(a)(1) to terminate
21 proceedings for the annexation if a majority protest exists in
22 accordance with Government Code Section 57078.

23 4. Respondent CITY CLERK OF THE CITY OF TUSTIN (the "City
24 Clerk" hereinafter) is the City official charged with the respon-
25 sibility of conducting and administering municipal elections.

26 5. Respondent COUNTY OF ORANGE (the "County" hereinafter) is
27 a political subdivision of the State of California and is a gen-
28 eral law county organized and existing under and by virtue of the

1 laws of the State of California.

2 6. Respondent REGISTRAR OF VOTERS OF THE COUNTY OF ORANGE
3 (the "Registrar of Voters" hereinafter) is the County official
4 charged with the responsibility of conducting and administering
5 county-wide elections, such as the elections scheduled to take
6 place on November 3, 1987.

7 7. The true names and capacities of Respondents named herein
8 as DOES 1 through 25, inclusive, are unknown to Petitioner, who
9 therefore sues such Respondents by such fictitious names. Peti-
10 tioner will amend this Petition to allege their true names and
11 capacities when the same have been ascertained. Petitioner is
12 informed and believes and, based thereon, alleges that such Res-
13 pondents are in some manner responsible for the acts or omissions
14 alleged herein and that the injury, damage, or loss to Petitioner
15 and its members/shareholders was proximately caused by such acts
16 or omissions.

17 8. On or about March 2, 1987, the City Council adopted a
18 "Resolution of Application" to initiate annexation proceedings for
19 the proposed Eveningside-Rainbow Annexation No. 139 to the City of
20 Tustin.

21 9. On or about March 6, 1987, the City filed the aforemen-
22 tioned City Council Resolution of Application with the Executive
23 Officer of the Local Agency Formation Commission of Orange County
24 ("LAFCO" hereinafter). The Resolution of Application was accepted
25 for filing on or about that same day.

26 10. On or about April 1, 1987, LAFCO adopted Resolution No.
27 87-19 approving the proposed Eveningside-Rainbow Annexation No.
28 139, designating the City as the conducting authority for the

1 proposed annexation, directing the City Council to initiate appro-
2 priate annexation proceedings.

3 11. The City caused a Notice of Public Hearing to be pub-
4 lished and mailed on or about April 30, 1987, regarding a public
5 hearing to be conducted by the City Council at 7:00 p.m. on May
6 18, 1987 with respect to the proposed Eveningside-Rainbow Annexa-
7 tion No. 139. The notice provided that any landowner would be
8 given the opportunity at the hearing to make objections or present
9 evidence to the City Council on the subject. The notice further
10 stated, in pertinent part:

11 "Any registered voter residing within the territory
12 or any owner of land within the territory who
13 wishes to file written protest against this annexa-
14 tion must do so by written communication filed with
15 the City Clerk, which must be filed not later than
16 the hour specified in this notice for commencement
17 of the hearing. Each written protest must state
18 whether it is made by a landowner or registered
19 voter and must indicate the name and address of the
20 owner of land affected and the street address iden-
21 tifying the location of the land, or the name and
22 address of the registered voter as it appears on
23 the affidavit of the registration. Each written
24 protest shall show the date that each signature was
25 affixed to the protest.

19 Any person who has filed a written protest may
20 withdraw that protest at any time prior to the
21 conclusion of the hearing."

21 A true and correct copy of the notice is set forth and attached
22 hereto as Exhibit 1. Following the date of publication of the
23 notice, members/shareholders of Petitioner NTHC and others under-
24 took to obtain valid signatures for written protests to the pro-
25 posed annexation.

26 12. On or about May 8, 1987, the Mayor of the City trans-
27 mitted a letter to residents of the proposed Eveningside-Rainbow
28 Annexation No. 139 area, informing them that "the City has decided

1 to postpone the protest hearing" on May 18, 1987 until May 26,
2 1987. The letter stated: "It is now the City's belief that
3 additional time is needed prior to any protest hearing to ensure
4 that adequate information is disseminated about the annexation
5 proposal and to provide residents within the proposed annexation
6 area additional time to review the subject proposal." A true and
7 correct copy of the letter is set forth and attached hereto as
8 Exhibit 2.

9 13. The City caused another Notice of Public Hearing to be
10 published on or about May 9, 1987, which was substantially similar
11 in content to the previously published notice dated April 30,
12 1987. This second notice provided that a protest hearing would be
13 conducted by the City Council at 7:00 p.m. on May 26, 1987. In
14 particular, the second notice stated, in pertinent part:

15 "Any registered voter residing within the terri-
16 tory, or any owner of land within the territory may
17 file a written protest against the proposed annexa-
18 tion by filing the protest with the City Clerk of
19 the City of Tustin at any time prior to commence-
20 ment of the public hearing. At the hearing, the
21 City Council shall hear and receive any oral or
22 written protests, objections, or evidence which is
23 made, presented or filed. Any person may withdraw
24 that protest at any time prior to the conclusion of
the hearing. Each written protest must state
whether it is made by a landowner or registered
voter and the name and address of the owner of land
affected and the street address or other descrip-
tion sufficient to identify the location of the
land, or the name and address of the registered
voter as it appears on the affidavit of the regis-
tration. Each written protest shall show the date
that each signature was affixed to the protest."

25 A true and correct copy of the notice is set forth and attached
26 hereto as Exhibit 3.

27 14. On or about May 13, 1987, a representative of the City
28 declared to the local media that written protests to the proposed

1 Eveningside-Rainbow Annexation No. 139 dated on or after April 30,
2 1987, but prior to May 9, 1987, would be considered valid by the
3 City in determining whether a majority protest existed.

4 15. On the evening of May 18, 1987, the City Council
5 announced that the protest hearing on the proposed Eveningside-
6 Rainbow Annexation was to be postponed to May 26, 1987 as reno-
7 ticed for the reasons stated in the Mayor's prior letter. The
8 City Council further announced that no oral or written protests,
9 objections or evidence would be accepted until May 26, 1987.

10 16. At no time after the Mayor's letter dated May 8, 1987
11 and before the City Council hearing on May 26, 1987 did any City
12 official or representative affirmatively state that written pro-
13 tests to the proposed annexation dated between April 30, 1987 and
14 May 9, 1987 would not be considered valid in determining whether a
15 majority protest existed.

16 17. On the evening of May 26, 1987, the City Council con-
17 ducted a protest hearing on the proposed Eveningside-Rainbow
18 Annexation No. 139. Prior to the time specified for that hearing,
19 members/shareholders of Petitioner NTHC presented 102 signatures
20 of registered voters protesting the proposed annexation. At the
21 time of the hearing, a representative of the City stated that
22 written protests dated between April 30, 1987 and May 9, 1987
23 would probably be considered valid. Of the 102 signatures
24 reviewed by the Registrar of Voters, 7 signatures were found to be
25 "not sufficient" because of some unspecified reason. The Regis-
26 trar of Voters found 95 signatures to be "sufficient." Finally,
27 the Registrar of Voters determined that there were 176 registered
28 voters in the affected area of the proposed annexation. Thus, the

1 95 signatures found to be "sufficient" by the Registrar of Voters
2 comprise approximately 54% (fifty-four percent) of the total
3 registered voters at issue. A true and correct copy of the
4 Registrar of Voters' determination is set forth and attached as
5 Exhibit 4.

6 18. Pursuant to the provisions of Government Code Section
7 57075(a)(1), the City Council was required to immediately termin-
8 ate and abandon the proceedings for the proposed Eveningside-
9 Rainbow Annexation No. 139 if a majority protest existed. A
10 majority protest exists where 50% (fifty percent) or more of the
11 registered voters residing within an inhabited area proposed for
12 annexation have filed, and not withdrawn, written protests. The
13 95 signatures found to be "sufficient" by the Registrar of Voters
14 were adequate in number to constitute such a majority protest for
15 the proposed Eveningside-Rainbow Annexation No. 139.

16 19. By reason of 95 signatures found to be "sufficient" by
17 the Registrar of Voters, Respondents City, City Council and City
18 Clerk had a clear, present and ministerial duty to terminate and
19 abandon the proceedings for the proposed Eveningside-Rainbow
20 Annexation No. 139. Petitioner NTHC and its members/shareholders
21 have a clear, present and substantial right to the performance of
22 such ministerial duty by those Respondents in that they are
23 registered voters and owners of real property within the proposed
24 annexation area, they are opposed to the proposed annexation, and
25 they are entitled to have the proceedings terminated and abandoned
26 after the majority protest was submitted. For these reasons,
27 Petitioner NTHC and its members/shareholders are beneficially
28 interested in the issuance of the writ sought to compel compliance

1 with the law.

2 20. On or about June 22, 1987, the City Council adopted
3 Resolution No. 87-71, ordering the territory encompassed by the
4 proposed Eveningside-Rainbow Annexation No. 139 be annexed to the
5 City subject to confirmation by a majority of the voters at a
6 special election to be held on November 3, 1987. In adopting this
7 Resolution, the City Council determined that less than 50% (fifty
8 percent) of the affected voters filed a written protest to the
9 proposed annexation. A true and correct copy of Resolution No.
10 82-71 is set forth and attached hereto as Exhibit 5.

11 21. On or about July 20, 1987, the City Council adopted
12 Resolution No. 87-80, requesting the Orange County Board of
13 Supervisors to permit the Registrar of Voters to conduct the
14 aforementioned special election for the proposed Eveningside-
15 Rainbow Annexation No. 139 on November 3, 1987. A true and
16 correct copy of Resolution No. 87-80 is set forth and attached
17 hereto as Exhibit 6.

18 22. Petitioner NTHC contends that the written protests to
19 the proposed Eveningside-Rainbow Annexation No. 139 dated between
20 April 30, 1987 and May 9, 1987 were valid in all respects. Peti-
21 tioner NTHC is informed and believes and, based thereon, alleges
22 that Respondent City Council's determination that no majority
23 protest existed as to the proposed Eveningside-Rainbow Annexation
24 No. 139 was based on the disregard of those written protest signa-
25 tures which were dated between April 30, 1987 and May 9, 1987.
26 Petitioner NTHC is further informed and believes and, based there-
27 on, alleges that the City Council's disregard of such signatures
28 was in turn based on a determination that the Notice of Public

1 Hearing published on April 30, 1987 (Exhibit 1) was not sufficient
2 to commence the protest period for the proposed annexation. Had
3 the City not disregarded those written protest signatures which
4 were dated between April 30, 1987 and May 9, 1987, a majority
5 protest would have existed and the City Council would have been
6 compelled to terminate and abandon the annexation proceedings.
7 The City's disregard of those written protest signatures was arbi-
8 trary, capricious and without legal justification.

9 23. Respondents City, City Council and City Clerk were
10 apprised of the facts relating to the duly submitted written pro-
11 tests dated between April 30, 1987 and May 9, 1987. Those Respon-
12 dents intended that their hereinabove alleged statements and con-
13 duct be acted on by members/shareholders of Petitioner NTHC and
14 others, or -- at the least -- such persons had a reasonable right
15 to believe those Respondents so intended. Members/shareholders of
16 Petitioner NTHC and others were ignorant of the true state of
17 facts, and they relied to their prejudice and injury upon those
18 Respondents' statements and conduct by assuming the validity of
19 the written protests dated between April 30, 1987 and May 9, 1987,
20 which disadvantaged their ability to obtain new signatures for
21 those protests. There would be no injustice to those Respondents
22 were Petitioner's understanding of the facts to prevail. As a
23 consequence of the foregoing, those Respondents should be estopped
24 from disputing the validity of the written protests dated between
25 April 30, 1987 and May 9, 1987.

26 24. Members/shareholders of Petitioner NTHC have demanded
27 that Respondents City, City Council and City Clerk undertake and
28 discharge their ministerial duties as required under Government

1 Code Section 57075(a)(1) by terminating and abandoning the pro-
2 ceedings for the proposed Eveningside-Rainbow Annexation No. 139.
3 At all times mentioned herein, those Respondents have been able to
4 perform such ministerial duties but, notwithstanding such ability
5 and the aforesaid demands, they have failed and refused to do so.

6 25. Petitioner NTHC has exhausted all administrative
7 remedies available to it and its members/shareholders and required
8 to be exhausted as a prerequisite to the filing of this action.

9 26. Petitioner NTHC does not have a plain, speedy and ade-
10 quate remedy in the ordinary course of law.

11 27. Petitioner has employed legal counsel to bring this
12 action on behalf of itself and its members/shareholders and Peti-
13 tioner is personally obligated to pay said counsel for services
14 rendered to prosecute this proceeding. The total amount of such
15 fees to be incurred are unknown at this time. Petitioner is
16 entitled to an award of reasonable attorneys' fees against Respon-
17 dents City, City Council and City Clerk pursuant to Code of Civil
18 Procedure Section 1021.5 and/or Government Code Section 800 in
19 that a substantial public right and interest is being vindicated
20 by this proceeding and in that the hereinabove alleged actions of
21 those Respondents were arbitrary and capricious.

22 WHEREFORE, Petitioner NORTH TUSTIN HOMEOWNERS CORPORATION
23 prays for judgment as follows:

24 1. For an Alternative Writ of Mandate commanding Respon-
25 dents CITY OF TUSTIN, CITY COUNCIL OF THE CITY OF TUSTIN, and CITY
26 CLERK OF THE CITY OF TUSTIN to vacate, set aside and rescind City
27 Council Resolution No. 87-71, to immediately terminate and abandon
28 the proposed Eveningside-Rainbow Annexation No. 139, and to cause

1 the special election called therefor on November 3, 1987 to be
2 cancelled; and for an Alternative Writ of Mandate commanding Res-
3 pondents COUNTY OF ORANGE and REGISTRAR OF VOTERS OF THE COUNTY OF
4 ORANGE to refrain from conducting or administering the special
5 election on the proposed Eveningside-Rainbow Annexation No. 139.

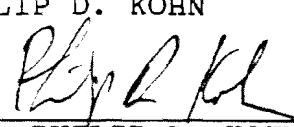
6 2. Upon the return of the Alternative Writ and the hearing
7 of this Petition, for a Peremptory Writ of Mandate commanding Res-
8 pondents CITY OF TUSTIN, CITY COUNCIL OF THE CITY OF TUSTIN, and
9 CITY CLERK OF THE CITY OF TUSTIN to vacate, set aside and rescind
10 City Council Resolution No. 87-71, to immediately terminate and
11 abandon the proposed Eveningside-Rainbow Annexation No. 139, and
12 to cause the special election called therefor on November 3, 1987
13 to be cancelled; and for a Peremptory Writ of Mandate commanding
14 Respondents COUNTY OF ORANGE and REGISTRAR OF VOTERS OF THE COUNTY
15 OF ORANGE to refrain from conducting or administering the special
16 election on the proposed Eveningside-Rainbow Annexation No. 139.

17 3. For an award of attorneys' fees, litigation expenses and
18 costs incurred in this action against Respondents CITY OF TUSTIN,
19 CITY COUNCIL OF THE CITY OF TUSTIN, and CITY CLERK OF THE CITY OF
20 TUSTIN as permitted or required by law.

21 4. For such other and further relief as the Court deems
22 just and proper.

23 DATED: August 25, 1987

RUTAN & TUCKER
ROGER A. GRABLE
PHILIP D. KOHN

24
25 
26 BY: PHILIP D. KOHN
27 Attorneys for Petitioner
28 NORTH TUSTIN HOMEOWNERS CORPOR-
ATION

5/130/063099-0002/009

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am a member of the Board of Directors of Petitioner NORTH
TUSTIN HOMEOWNERS CORPORATION, a California corporation, a party
to this action, and am authorized to make this verification for
and on its behalf, and I make this verification for that reason.
I have read the following PETITION FOR WRIT OF MANDATE and know
its contents. I am informed and believe and on that ground allege
that the matters stated in it are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of August, 1987, at Costa Mesa, Orange
County, California.

NORTH TUSTIN HOMEOWNERS CORPORATION,
a California corporation

Sheila M. Pryor
SHEILA M. PRYOR

5/130/063099-0002/010

RUTAN & TUCKER
 ROGER A. GRABLE
 PHILIP D. KOHN
 Central Bank Building
 611 Anton Boulevard, Suite 1400
 Post Office Box 1950
 Costa Mesa, California 92628-1950
 Telephone: (714) 641-5100

Attorneys for Petitioner
 NORTH TUSTIN HOMEOWNERS CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

| | | |
|---|---|------------------------------|
| NORTH TUSTIN HOMEOWNERS CORPORATION, a California corporation, |) | CASE NO. |
| |) | |
| Petitioner, |) | PETITION FOR WRIT OF MANDATE |
| |) | |
| vs. |) | |
| |) | |
| CITY OF TUSTIN, a municipal corporation, CITY COUNCIL OF THE CITY OF TUSTIN, CITY CLERK OF THE CITY OF TUSTIN, COUNTY OF ORANGE, REGISTRAR OF VOTERS OF THE COUNTY OF ORANGE, and DOES 1 through 25, inclusive, |) | |
| |) | |
| Respondents. |) | |

Petitioner NORTH TUSTIN HOMEOWNERS CORPORATION ("NTHC" hereinafter), for itself and in its representative capacity on behalf of its members/shareholders, hereby petitions this Court for a Writ of Mandate under Code of Civil Procedure Section 1085 and alleges as follows:

1. Petitioner NTHC is a California corporation organized and existing in good standing under the laws of the State of California to do business within the County of Orange, State of Cali-

1 fornia. The members/shareholders of Petitioner NTHC consist of
2 registered voters and owners of real property located within
3 Orange County and, more particularly, an unincorporated area known
4 as "the proposed La Colina-Browning Annexation No. 140," bounded
5 by Newport Avenue on the west, La Colina on the north, Browning
6 Avenue on the east, and Burnt Mill Road and the present City of
7 Tustin limits on the south.

8 2. Respondent CITY OF TUSTIN (the "City" hereinafter) is a
9 general law municipal corporation located in the County of Orange
10 and is organized and existing under and by virtue of the laws of
11 the State of California.

12 3. Respondent CITY COUNCIL OF THE CITY OF TUSTIN (the "City
13 Council" hereinafter) is, when acting in its official capacity,
14 the governing body of the City of Tustin. The City Council is,
15 among other things, responsible for complying with the provisions
16 of the Cortese-Knox Local Government Reorganization Act of 1985
17 (Gov. Code § 56000 et seq.) with respect to proposals for the
18 annexation of real property to the City of Tustin. More spec-
19 ifically, the City Council, when acting as the conducting author-
20 ity for a proposed annexation of inhabited territory to the City,
21 is required by Government Code Section 57075(a)(1) to terminate
22 proceedings for the annexation if a majority protest exists in
23 accordance with Government Code Section 57078.

24 4. Respondent CITY CLERK OF THE CITY OF TUSTIN (the "City
25 Clerk" hereinafter) is the City official charged with the respon-
26 sibility of conducting and administering municipal elections.

27 5. Respondent COUNTY OF ORANGE (the "County" hereinafter) is
28 a political subdivision of the State of California and is a gen-

1 eral law county organized and existing under and by virtue of the
2 laws of the State of California.

3 6. Respondent REGISTRAR OF VOTERS OF THE COUNTY OF ORANGE
4 (the "Registrar of Voters" hereinafter) is the County official
5 charged with the responsibility of conducting and administering
6 county-wide elections, such as the elections scheduled to take
7 place on November 3, 1987.

8 7. The true names and capacities of Respondents named herein
9 as DOES 1 through 25, inclusive, are unknown to Petitioner, who
10 therefore sues such Respondents by such fictitious names. Peti-
11 tioner will amend this Petition to allege their true names and
12 capacities when the same have been ascertained. Petitioner is
13 informed and believes and, based thereon, alleges that such Res-
14 pondents are in some manner responsible for the acts or omissions
15 alleged herein and that the injury, damage, or loss to Petitioner
16 and its members/shareholders was proximately caused by such acts
17 or omissions.

18 8. On or about March 2, 1987, the City Council adopted a
19 "Resolution of Application" to initiate annexation proceedings for
20 the proposed La Colina-Browning Annexation No. 140 to the City of
21 Tustin.

22 9. On or about March 4, 1987, the City filed the aforemen-
23 tioned City Council Resolution of Application with the Executive
24 Officer of the Local Agency Formation Commission of Orange County
25 ("LAFCO" hereinafter). The Resolution of Application was accepted
26 for filing on or about that same day.

27 10. On or about April 1, 1987, LAFCO adopted Resolution No.
28 87-20 approving the proposed La Colina-Browning Annexation No.

1 140, designating the City as the conducting authority for the
2 proposed annexation, directing the City Council to initiate appro-
3 priate annexation proceedings.

4 11. The City caused a Notice of Public Hearing to be pub-
5 lished and mailed on or about April 30, 1987, regarding a public
6 hearing to be conducted by the City Council at 7:00 p.m. on May
7 18, 1987 with respect to the proposed La Colina-Browning Annexa-
8 tion No. 140. The notice provided that any landowner would be
9 given the opportunity at the hearing to make objections or present
10 evidence to the City Council on the subject. The notice further
11 stated, in pertinent part:

12 "Any registered voter residing within the territory
13 or any owner of land within the territory who
14 wishes to file written protest against this annexa-
15 tion must do so by written communication filed with
16 the City Clerk, which must be filed not later than
17 the hour specified in this notice for commencement
18 of the hearing. Each written protest must state
19 whether it is made by a landowner or registered
20 voter and must indicate the name and address of the
21 owner of land affected and the street address iden-
22 tifying the location of the land, or the name and
23 address of the registered voter as it appears on
24 the affidavit of the registration. Each written
25 protest shall show the date that each signature was
26 affixed to the protest.

20 Any person who has filed a written protest may
21 withdraw that protest at any time prior to the
22 conclusion of the hearing."

22 A true and correct copy of the notice is set forth and attached
23 hereto as Exhibit 1. Following the date of publication of the
24 notice, members/shareholders of Petitioner NTHC and others under-
25 took to obtain valid signatures for written protests to the pro-
26 posed annexation.

27 12. On or about May 8, 1987, the Mayor of the City trans-
28 mitted a letter to residents of the La Colina-Browning Annexation

1 No. 140 area, informing them that "the City has decided to post-
2 pone the hearing" on May 18, 1987 until May 26, 1987. The letter
3 stated: "It is now the City's belief that additional time is
4 needed prior to any protest hearing to ensure that adequate infor-
5 mation is disseminated about the annexation proposal and to pro-
6 vide residents with the proposed annexation area additional time
7 to review the subject proposal." A true and correct copy of the
8 letter is set forth and attached hereto as Exhibit 2.

9 13. The City caused another Notice of Public Hearing to be
10 published on or about May 9, 1987, which was substantially similar
11 in content to the previously published notice dated April 30,
12 1987. This second notice provided that a protest hearing would be
13 conducted by the City Council at 7:00 p.m. on May 26, 1987. In
14 particular, the second notice stated, in pertinent part:

15 "Any registered voter residing within the terri-
16 tory, or any owner of land within the territory may
17 file a written protest against the proposed annexa-
18 tion by filing the protest with the City Clerk of
19 the City of Tustin at any time prior to commence-
20 ment of the public hearing. At the hearing, the
21 City Council shall hear and receive any oral or
22 written protests, objections, or evidence which is
23 made, presented or filed. Any person may withdraw
24 that protest at any time prior to the conclusion of
the hearing. Each written protest must state
whether it is made by a landowner or registered
voter and the name and address of the owner of land
affected and the street address or other descrip-
tion sufficient to identify the location of the
land, or the name and address of the registered
voter as it appears on the affidavit of the regis-
tration. Each written protest shall show the date
that each signature was affixed to the protest."

25 A true and correct copy of the notice is set forth and attached
26 hereto as Exhibit 3.

27 14. On or about May 13, 1987, a representative of the City
28 declared to the local media that written protests to the proposed

1 La Colina-Browning Annexation No. 140 dated on or after April 30,
2 1987, but prior to May 9, 1987, would be considered valid by the
3 City in determining whether a majority protest existed.

4 15. On the evening of May 18, 1987, the City Council
5 announced that the protest hearing on the proposed La Colina-
6 Browning Annexation was to be postponed to May 26, 1987 as reno-
7 ticed because of "a minor clerical error." (The error in the
8 first notice was an incorrect reference to the proposed annexation
9 as an "island annexation.") The City Council further announced
10 that no oral or written protests, objections or evidence would be
11 accepted until May 26, 1987.

12 16. At no time after the Mayor's letter dated May 8, 1987
13 and before the City Council hearing on May 26, 1987 did any City
14 official or representative affirmatively state that written pro-
15 tests to the proposed annexation dated between April 30, 1987 and
16 May 9, 1987 would not be considered valid in determining whether a
17 majority protest existed.

18 17. On the evening of May 26, 1987, the City Council con-
19 ducted a protest hearing on the proposed La Colina-Browning Annex-
20 ation No. 140. Prior to the time specified for that hearing,
21 members/shareholders of Petitioner NTHC presented 1,910 signatures
22 of registered voters protesting the proposed annexation. At the
23 time of the hearing, a representative of the City stated that
24 written protests dated between April 30, 1987 and May 9, 1987
25 would probably be considered valid. Of the 1,910 signatures
26 reviewed by the Registrar of Voters, 515 signatures were found to
27 be "not sufficient" because of being duplicate signatures and 85
28 signatures were found to be "not sufficient" for other unspecified

1 reasons. The Registrar of Voters found 1,310 signatures to be
2 "sufficient." Finally, the Registrar of Voters determined that
3 there were 2,531 registered voters in the affected area of the
4 proposed annexation. Thus, the 1,310 signatures found to be "suf-
5 ficient" by the Registrar of Voters comprise approximately 58%
6 (fifty-eight percent) of the total registered voters at issue. A
7 true and correct copy of the Registrar of Voters' determination is
8 set forth and attached as Exhibit 4.

9 18. Pursuant to the provisions of Government Code Section
10 57075(a)(1), the City Council was required to immediately termin-
11 ate and abandon the proceedings for the proposed La Colina-Brown-
12 ing Annexation No. 140 if a majority protest existed. A majority
13 protest exists where 50% (fifty percent) or more of the registered
14 voters residing within an inhabited area proposed for annexation
15 have filed, and not withdrawn, written protests. The 1,310 signa-
16 tures found to be "sufficient" by the Registrar of Voters were
17 adequate in number to constitute such a majority protest for the
18 proposed La Colina-Browning Annexation No. 140.

19 19. By reason of 1,310 signatures found to be "sufficient" by
20 the Registrar of Voters, Respondents City, City Council and City
21 Clerk had a clear, present and ministerial duty to terminate and
22 abandon the proceedings for the proposed La Colina-Browning Annex-
23 ation No. 140. Petitioner NTHC and its members/shareholders have
24 a clear, present and substantial right to the performance of such
25 ministerial duty by those Respondents in that they are registered
26 voters and owners of real property within the proposed annexation
27 area, they are opposed to the proposed annexation, and they are
28 entitled to have the proceedings terminated and abandoned after

1 the majority protest was submitted. For these reasons, Petitioner
2 NTHC and its members/shareholders are beneficially interested in
3 the issuance of the writ sought to compel compliance with the law.

4 20. On or about June 22, 1987, the City Council adopted
5 Resolution No. 87-72, ordering the territory encompassed by the
6 proposed La Colina-Browning Annexation No. 140 be annexed to the
7 City subject to confirmation by a majority of the voters at a
8 special election to be held on November 3, 1987. In adopting this
9 Resolution, the City Council determined that less than 50% (fifty
10 percent) of the affected voters filed a written protest to the
11 proposed annexation. A true and correct copy of Resolution No.
12 82-72 is set forth and attached hereto as Exhibit 5.

13 21. On or about July 20, 1987, the City Council adopted
14 Resolution No. 87-81, requesting the Orange County Board of
15 Supervisors to permit the Registrar of Voters to conduct the
16 aforementioned special election for the proposed La Colina-
17 Browning Annexation No. 140 on November 3, 1987. A true and
18 correct copy of Resolution No. 87-81 is set forth and attached
19 hereto as Exhibit 6.

20 22. Petitioner NTHC contends that the written protests to
21 the proposed La Colina-Browning Annexation No. 140 dated between
22 April 30, 1987 and May 9, 1987 were valid in all respects. Peti-
23 tioner NTHC is informed and believes and, based thereon, alleges
24 that Respondent City Council's determination that no majority
25 protest existed as to the proposed La Colina-Browning Annexation
26 No. 140 was based on the disregard of those written protest signa-
27 tures which were dated between April 30, 1987 and May 9, 1987.
28 Petitioner NTHC is further informed and believes and, based there-

1 on, alleges that the City Council's disregard of such signatures
2 was in turn based on a determination that the Notice of Public
3 Hearing published on April 30, 1987 (Exhibit 1) was not sufficient
4 to commence the protest period for the proposed annexation. Had
5 the City not disregarded those written protest signatures which
6 were dated between April 30, 1987 and May 9, 1987, a majority
7 protest would have existed and the City Council would have been
8 compelled to terminate and abandon the annexation proceedings.
9 The City's disregard of those written protest signatures was arbi-
10 trary, capricious and without legal justification.

11 23. Respondents City, City Council and City Clerk were
12 apprised of the facts relating to the duly submitted written pro-
13 tests dated between April 30, 1987 and May 9, 1987. Those Respon-
14 dents intended that their hereinabove alleged statements and con-
15 duct be acted on by members/shareholders of Petitioner NTHC and
16 others, or -- at the least -- such persons had a reasonable right
17 to believe those Respondents so intended. Members/shareholders of
18 Petitioner NTHC and others were ignorant of the true state of
19 facts, and they relied to their prejudice and injury upon those
20 Respondents' statements and conduct by assuming the validity of
21 the written protests dated between April 30, 1987 and May 9, 1987,
22 which disadvantaged their ability to obtain new signatures for
23 those protests. There would be no injustice to those Respondents
24 were Petitioner's understanding of the facts to prevail. As a
25 consequence of the foregoing, those Respondents should be estopped
26 from disputing the validity of the written protests dated between
27 April 30, 1987 and May 9, 1987.

28 24. Members/shareholders of Petitioner NTHC have demanded

1 that Respondents City, City Council and City Clerk undertake and
2 discharge their ministerial duties as required under Government
3 Code Section 57075(a)(1) by terminating and abandoning the pro-
4 ceedings for the proposed La Colina-Browning Annexation No. 140.
5 At all times mentioned herein, those Respondents have been able to
6 perform such ministerial duties but, notwithstanding such ability
7 and the aforesaid demands, they have failed and refused to do so.

8 25. Petitioner NTHC has exhausted all administrative
9 remedies available to it and its members/shareholders and required
10 to be exhausted as a prerequisite to the filing of this action.

11 26. Petitioner NTHC does not have a plain, speedy and ade-
12 quate remedy in the ordinary course of law.

13 27. Petitioner has employed legal counsel to bring this
14 action on behalf of itself and its members/shareholders and Peti-
15 tioner is personally obligated to pay said counsel for services
16 rendered to prosecute this proceeding. The total amount of such
17 fees to be incurred are unknown at this time. Petitioner is
18 entitled to an award of reasonable attorneys' fees against Respon-
19 dents City, City Council and City Clerk pursuant to Code of Civil
20 Procedure Section 1021.5 and/or Government Code Section 800 in
21 that a substantial public right and interest is being vindicated
22 by this proceeding and in that the hereinabove alleged actions of
23 those Respondents were arbitrary and capricious.

24 WHEREFORE, Petitioner NORTH TUSTIN HOMEOWNERS CORPORATION
25 prays for judgment as follows:

26 1. For an Alternative Writ of Mandate commanding Respon-
27 dents CITY OF TUSTIN, CITY COUNCIL OF THE CITY OF TUSTIN, and CITY
28 CLERK OF THE CITY OF TUSTIN to vacate, set aside and rescind City

1 Council Resolution No. 87-72, to immediately terminate and abandon
2 the proposed La Colina-Browning Annexation No. 140, and to cause
3 the special election called therefor on November 3, 1987 to be
4 cancelled; and for an Alternative Writ of Mandate commanding Res-
5 pondents COUNTY OF ORANGE and REGISTRAR OF VOTERS OF THE COUNTY OF
6 ORANGE to refrain from conducting or administering the special
7 election on the proposed La Colina-Browning Annexation No. 140.

8 2. Upon the return of the Alternative Writ and the hearing
9 of this Petition, for a Peremptory Writ of Mandate commanding Res-
10 pondents CITY OF TUSTIN, CITY COUNCIL OF THE CITY OF TUSTIN, and
11 CITY CLERK OF THE CITY OF TUSTIN to vacate, set aside and rescind
12 City Council Resolution No. 87-72, to immediately terminate and
13 abandon the proposed La Colina-Browning Annexation No. 140, and to
14 cause the special election called therefor on November 3, 1987 to
15 be cancelled; and for a Peremptory Writ of Mandate commanding
16 Respondents COUNTY OF ORANGE and REGISTRAR OF VOTERS OF THE COUNTY
17 OF ORANGE to refrain from conducting or administering the special
18 election on the proposed La Colina-Browning Annexation No. 140.

19 3. For an award of attorneys' fees, litigation expenses and
20 costs incurred in this action against Respondents CITY OF TUSTIN,
21 CITY COUNCIL OF THE CITY OF TUSTIN, and CITY CLERK OF THE CITY OF
22 TUSTIN as permitted or required by law.

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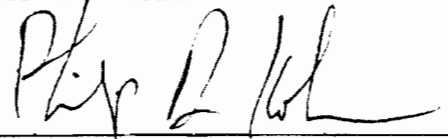
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1 4. For such other and further relief as the Court deems
2 just and proper.

3 DATED: August 21, 1987

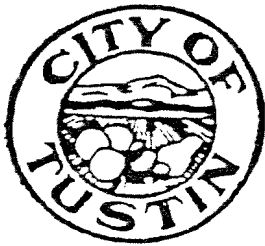
RUTAN & TUCKER
ROGER A. GRABLE
PHILIP D. KOHN



BY: PHILIP D. KOHN
Attorneys for Petitioner
NORTH TUSTIN HOMEOWNERS CORPOR-
ATION

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5/130/099999-0073/022



OFFICIAL NOTICE
OF
PUBLIC HEARING
TUSTIN CITY COUNCIL

*Received by
mail 5/2/87
May 2, 1987.*

NOTICE OF PUBLIC HEARING
TUSTIN CITY COUNCIL

The City Council of the City of Tustin will conduct a public hearing at 7:00 P.M. on May 18, 1987, in the Council Chambers, 300 Centennial Way, Tustin, California on its intent to conduct a protest hearing prior to the annexation of unincorporated island territory known as La Colina - Browning Annexation No. 140. The proposed annexation area is bounded by Newport Avenue on the west, La Colina on the north, Browning Avenue on the east and present City limits on the south.

Any landowner shall be given an opportunity at the hearing to make objections or present evidence to the City Council.

The proposed terms and conditions are that the City of Tustin as applicant shall be liable for and pay all proper expenses incurred in conducting proceedings for the subject change of organization.

Any registered voter residing within the territory or any owner of land within the territory who wishes to file written protest against this annexation must do so by written communication filed with the City Clerk, which must be filed not later than the hour specified in this notice for commencement of the hearing. Each written protest must state whether it is made by a landowner or registered voter and must indicate the name and address of the owner of land affected and the street address identifying the location of the land, or the name and address of the registered voter as it appears on the affidavit of the registration. Each written protest shall show the date that each signature was affixed to the protest.

Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

Additional information regarding this hearing may be obtained by contacting the Community Development Department at (714) 544-8890.

MARY E. WYNN, City Clerk

PUBLISH: THE TUSTIN NEWS
April 30, 1987

EXHIBIT "1"



City of Tustin

RICHARD B. EDGAR, Mayor
URSULA E. KENNEDY, Mayor Pro Tem
RONALD B. HOESTERY, Council Member
JOHN KELLY, Council Member
EARL J. PRESCOTT, Council Member

WILLIAM A. HUSTON, City Manager

May 8, 1987

Dear Resident:


The City of Tustin recently sent you a public hearing notice regarding the proposed annexation of territory to the City of Tustin known as La Colina-Browning Annexation No. 140. The notice indicated that the protest hearing on this annexation proposal was scheduled at 7:00 p.m. on May 18, 1987.

It is now the City's belief that additional time is needed prior to any protest hearing to ensure that adequate information is disseminated about the annexation proposal and to provide residents within the proposed annexation area additional time to review the subject proposal.

Appropriately, the City has decided to postpone the protest hearing on Annexation No. 140 until May 26, 1987. Please find attached a revised public hearing notice on this matter that provides all pertinent information.

Should you have any questions on the proposed annexations, please do not hesitate to contact me or the City's Community Development Department at (714) 544-8890, extension 250.

Sincerely,


Richard B. Edgar
Mayor

RBE:CAS:pef

Enclosures: Public Hearing Notice

EXHIBIT "2"

OFFICIAL NOTICE OF
PUBLIC HEARING
Tustin City Council

NOTICE OF PUBLIC HEARING
TUSTIN CITY COUNCIL

The City Council of the City of Tustin will conduct a public hearing on May 26, 1987, at 7:00 P.M., in the Council Chambers, 300 Centennial Way, Tustin, California, on the proposed annexation designated La Colina-Browning Annexation No. 140 to the City of Tustin.

On March 2, 1987, the City Council of the City of Tustin adopted a Resolution of Application to initiate annexation proceedings for the subject territory with the Local Agency Formation Commission of Orange County, California. After conducting a public hearing on April 1, 1987 on the proposed annexation, the Local Agency Formation Commission adopted a Resolution designating the City of Tustin as the conducting authority and directing the City Council of the City of Tustin to initiate annexation proceedings in compliance with said Resolution.

The proposed La Colina-Browning Annexation No. 140 consists of territory bounded by Browning Avenue on the east, La Colina on the north, Newport Avenue on the west, and Burnt Mill Road and the present Tustin City limits on the south.

The proposed annexation is made for the purpose of increasing the economy and efficiency of the full range of government services provided to residents of the proposed annexation territory by incorporating said territory which lies within the City of Tustin's sphere of influence.

Any registered voter residing within the territory, or any owner of land within the territory may file a written protest against the proposed annexation by filing the protest with the City Clerk of the City of Tustin at any time prior to commencement of the public hearing. At the hearing, the City Council shall hear and receive any oral or written protests, objections, or evidence which is made, presented or filed. Any person may withdraw that protest at any time prior to the conclusion of the hearing. Each written protest must state whether it is made by a landowner or registered voter and the name and address of the owner of land affected and the street address or other description sufficient to identify the location of the land, or the name and address of the registered voter as it appears on the affidavit of the registration. Each written protest shall show the date that each signature was affixed to the protest.

The City of Tustin, as applicant, shall be liable for and pay all proper expenses incurred in conducting proceedings for the subject change of organization.

Additional information regarding this hearing may be obtained by contacting the Community Development Department at (714) 544-8890.

MARY E. WYNN, City Clerk
PUBLISH: THE ORANGE COUNTY REGISTER

EXHIBIT "3"



R. A. SCOTT
Director, General Services Agency

REGISTRATION & ELECTIONS DIVISION

A.E. OLSON, REGISTRAR OF VOTERS
1300 S. Grand Avenue
Santa Ana, CA 92705
(714) 834-2244

Mailing Address:
P.O. Box 11298
Santa Ana, California 92711

June 3, 1987

Mary Wynn, City Clerk
City of Tustin
300 Centennial Way
Tustin, California 92780

Dear Ms. Wynn:

Enclosed is our Certificate as to Number of Qualified Voters for the petition protesting the Proposed Annexation of County of Orange Residential Territory to the City of Tustin, No. 140 "La Colina-Browning".

The number of registered voters in the La Colina-Browning Territory is 2,531.

A. E. Olson
Registrar of Voters

Enclosure

EXHIBIT "4"

CERTIFICATE AS TO NUMBER OF QUALIFIED VOTERS

State of California)
County of Orange) ss.

I, A. E. Olson, Registrar of Voters of the County of Orange, do hereby certify that I am the county officer having charge of the registration of voters in the County of Orange, and I have examined, or caused to be examined, the attached petition protesting the Proposed Annexation of County of Orange Residential Territory to the City of Tustin, No. 140 "La Colina-Browning".

I further certify that from said examination I have determined the following facts regarding these documents:

Number of signatures verified: 1,910

Number of signatures found "sufficient": 1,310

Number of signatures found "not sufficient": 600

Number of signatures found
"not sufficient" because of
being duplicate signatures: 515

Total number of registered voters in the described portion: 2,531

Dated this 3rd day of June, 1987.



A. E. OLSON
Registrar of Voters
Orange County

EXHIBIT "4"

1 RESOLUTION NO. 87-72

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY
3 OF TUSTIN, CALIFORNIA, ORDERING LA COLINA-
4 BROWNING ANNEXATION NO. 140 SUBJECT TO CON-
5 FIRMATION OF THE VOTERS, CALLING AND GIVING
6 NOTICE OF A SPECIAL ANNEXATION ELECTION FOR
7 LA COLINA-BROWNING ANNEXATION NO. 140 TO THE
8 CITY OF TUSTIN TO BE HELD IN TERRITORY PRO-
POSED FOR ANNEXATION ON TUESDAY, THE 3RD OF
NOVEMBER, 1987, AS REQUIRED BY THE PROVISIONS
OF THE LAWS OF THE STATE OF CALIFORNIA RE-
LATING TO THE CALL AND CONDUCT OF SUCH
SPECIAL ELECTION AND PROVIDING FOR THE FILING
OF ARGUMENTS AND REBUTTAL ARGUMENTS

9 WHEREAS, under the provisions of law relating to the annexa-
10 tion of inhabited territory by a city, specifically pursuant to
11 Part 4 of Title 5, Division 3, commencing with Sections 5600 et
12 seq. of the Government Code of the State of California, this City
Council did properly cause a "Notice of Public Hearing" to be
published and thereafter did on May 26, 1987, hold such public
hearing; and

13 WHEREAS, protests have been filed in a number less than 50%
14 of those voters within the territory proposed for annexation.

15 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUSTIN,
16 CALIFORNIA, DOES HEREBY RESOLVE, DECLARE AND DETERMINE AS FOLLOWS:

17 Section 1: That all of that territory described as the
18 La Colina-Browning Annexation No. 140 to the City of Tustin be
annexed to the City of Tustin subject to confirmation by a majority
of the duly registered voters residing in said territory.

19 Section 2: That La Colina-Browning Annexation No. 140
20 consists of territory bounded by Browning Avenue on the east, La
21 Colina on the north, Newport Avenue on the west and Burnt Mill Road
22 and the present Tustin city limits on the south, and is made for
the purpose of increasing the economy and efficiency of the full
range of government services provided for residents of the annexa-
tion territory by incorporating said territory which lies within
the City of Tustin's sphere of influence.

23 Section 3: That the affected territory will not be taxed
24 for existing general bonded indebtedness of the City of Tustin.

25 Section 4: That pursuant to the provisions of California
26 Government Code Sections 57075 and 57100, there shall be and there
27 is hereby called and ordered a special election to be held in said
territory on Tuesday, November 3, 1987, between the hours of 7:00
A.M. and 8:00 P.M., for the purpose of ascertaining whether the
28 voters residing therein confirm and agree to the annexation of said
territory.

EXHIBIT "5"

1 Section 5: That notice of said special election shall be
2 given and published by the City Clerk pursuant to California
Government Code Section 57130.

3 Section 6: That within five (5) days from date of this
4 Resolution the Clerk shall transmit, by certified mail, a certified
5 copy of this Resolution and any additional information required by
Government Code Section 57144 to the Executive Officer of the Local
Agency Formation Commission.

6 Section 7: That pursuant to the provisions of California
7 Government Code Section 57145, arguments for the annexation and
8 arguments against the annexation may be submitted in writing by the
9 conducting authority, or member or members of the conducting au-
10 thority authorized by it, or any individual voter or an association
11 of citizens entitled to vote on the annexation (not to exceed 300
words in length) and shall be filed with the City Clerk for
printing and distribution in the ballot pamphlet not later than
July 27, 1987. Only one argument for and one argument against
shall be selected by the City Clerk and printed in the ballot
pamphlet.

12 Section 8: That pursuant to Section 5014.5 of the Elec-
13 tions Code of the State of California, if any person submits an
14 argument against a city measure, and an argument has been filed in
15 favor of the city measure, the City Clerk shall immediately send
16 copies of that argument to the persons filing the argument in favor
17 of the city measure. The persons filing the argument in favor of
18 the city measure may prepare and submit a rebuttal argument not
exceeding 250 words. The City Clerk shall send copies of the argu-
ment in favor of the measure to the persons filing the argument
against the city measure, who may prepare and submit a rebuttal
argument to the argument in favor of the city measure not exceeding
250 words. The rebuttal arguments shall be filed with the City
Clerk not later than August 10, 1987.

19 Section 9: The annexation area is within the
20 following Precincts and polling places:

| | |
|-------------------|---|
| Precinct No.: | 72-258 |
| Polling Location: | 13051 Dean Street Tustin, CA 92680 |
| Precinct No.: | 72-259 |
| Polling Location: | 1681 Tiffany Santa Ana, CA 92705 |
| Precinct No.: | 72-260 |
| Polling Location: | 1201 Irvine Boulevard Tustin, CA 92680 |
| Precinct No.: | 72-261 |
| Polling Location: | 1762 Sierra Alta Drive Santa Ana, CA 92705 |

Precinct No.: Part of 72-318
Polling Location: 12301 Redhill Avenue
Santa Ana, CA 92705

Precinct No.: 72-321
Polling Location: 1826 Blueberry
Tustin, CA 92680

Section 10: The City Council, pursuant to its right and authority so to do, does hereby determine that there shall be and there is hereby ordered submitted to the registered voters within the annexation territory at said election the following question, to-wit:

Shall the order adopted June 15, 1987 by the City Council of the City of Tustin ordering the annexation to the City of Tustin of the territory described in that order and designated as La Colina-Browning Annexation No. 140 be confirmed?

| | |
|-----|--|
| Yes | |
| No | |

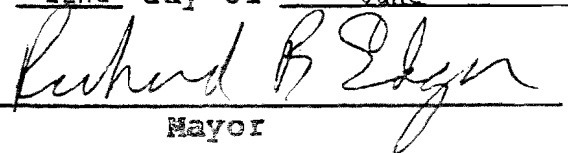
A cross (+) placed in the voting square after the word "YES" shall be counted in favor of adoption of the measure. A cross (+) placed in the voting square after the word "NO" shall be counted against adoption of the measure.

Section 11: A canvass of the ballots cast shall be conducted pursuant to Sections 17080 - 17089 of the Elections Code and determination of the proposal shall be based upon the majority votes of eligible voters within the subject territory casting a vote.

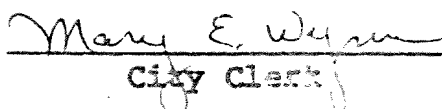
Section 12: That in all other particulars not provided for, the Clerk shall conduct the election as provided by law.

Section 13: That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of said City; and shall enter the passage and adoption thereof in the minutes of the proceedings of the City Council meeting of said city at which the same is passed and adopted.

PASSED AND ADOPTED at ^{adjourned} ~~an~~ regular meeting of the City Council of the City of Tustin held on the 22nd day of June, 1987.


Mayor

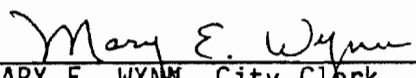
ATTEST:


City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF TUSTIN)

MARY E. WYNN, City Clerk and ex-officio Clerk of the City Council of the City of Tustin, California, does hereby certify that the whole number of the members of the City Council of the City of Tustin is five; that the above and foregoing Resolution No. 87-72 was duly and regularly introduced, passed and adopted at an adjourned regular meeting of the City Council held on the 22nd day of June, 1987, by the following vote:

AYES : COUNCILPERSONS: Edgar, Kelly, Prescott
NOES : COUNCILPERSONS: Hoesterey, Kennedy
ABSENT: COUNCILPERSONS: None



MARY E. WYNN, City Clerk
City of Tustin, California

1 RESOLUTION NO. 87-81

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN,
3 CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE
4 COUNTY OF ORANGE TO PERMIT THE REGISTRAR OF VOTERS TO CON-
5 DUCT A SPECIAL ANNEXATION ELECTION FOR TERRITORY KNOWN AS
6 LA COLINA-BROWNING ANNEXATION NO. 140 TO BE HELD IN TERRI-
7 TORY PROPOSED FOR ANNEXATION ON TUESDAY, THE 3RD OF
8 NOVEMBER, 1987

6 WHEREAS, a Special Annexation Election is to be held in the terri-
7 tory known as La Colina-Browning Annexation No. 140 on Tuesday, November 3,
8 1987; and

8 WHEREAS, it is the desire of the City to request the County of
9 Orange to conduct the Special Annexation Election; and

10 WHEREAS, all necessary expense in performing this service shall be
11 paid by the City of Tustin;

11 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUSTIN, CALIFOR-
12 NIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

13 SECTION 1. That pursuant to the provisions of Section 22003 of
14 the Elections Code of the State of California, this City Council hereby
15 requests the Board of Supervisors of said County to permit the Registrar of
16 Voters to conduct a Special Annexation Election for territory known as
17 La Colina-Browning Annexation No. 140.

16 SECTION 2. That said City shall reimburse said County for ser-
17 vices performed when the work is completed and upon presentation to the City
18 of a properly approved bill.

18 SECTION 3. That the City Clerk is hereby directed to forward
19 without delay to said Board of Supervisors and to said Registrar of Voters,
20 each a certified copy of this resolution.

20 PASSED AND ADOPTED at a regular meeting of the City Council of the
21 City of Tustin, California, on July 20, 1987.

22 
23 MAYOR

23 
24 CITY CLERK

25
26
27 EXHIBIT "6"
28

1 STATE OF CALIFORNIA)
2 COUNTY OF ORANGE) §
3 CITY OF TUSTIN)

4 MARY E. WYNN, City Clerk and ex-officio Clerk of the City Council of the City
5 of Tustin, California, does hereby certify that the whole number of the mem-
6 bers of the City Council of the City of Tustin is five; that the above and
7 foregoing Resolution No. 87-81 was duly and regularly introduced, passed and
8 adopted at a regular meeting of the City Council held on the 20th day of
9 July, 1987, by the following vote:

10 AYES : COUNCILPERSONS: Edgar, Hoesterey, Kelly, Kennedy, Prescott
11 NOES : COUNCILPERSONS: None
12 ABSENT: COUNCILPERSONS: None

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Eva A. Nava, Deputy
for MARY E. WYNN, City Clerk
City of Tustin, California

V E R I F I C A T I O N

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am the President of Petitioner NORTH TUSTIN HOMEOWNERS CORPORATION, a California corporation, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the following PETITION FOR WRIT OF MANDATE and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 21st day of August, 1987, at Costa Mesa, Orange County, California.

NORTH TUSTIN HOMEOWNERS CORPORATION,
a California corporation



JOSEPH HERZIG, President

5/130/099999-0073/023



California Fair Political Practices Commission

November 2, 1987

Joseph Herzig, President
North Tustin Homeowners Corporation
1751 Rainbow Drive
Santa Ana, Ca 92705

Re: 87-272

Dear Mr. Herzig:

Your letter requesting advice under the Political Reform Act was received on October 30, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard by plh
Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh